

**IN THE UNITED STATES DISTRICT COURT
FOR THE WESTERN DISTRICT OF PENNSYLVANIA**

BRIGIOTTA’S FARMLAND PRODUCE)	
& GARDEN CENTER, INC.,)	
)	
Plaintiff,)	Civil Action No. 15-251E
)	
v.)	Judge Cathy Bissoon
)	
JERILU FRUIT AND PRODUCE)	
COMPANY,)	
)	
Defendant.)	

ORDER

Plaintiff’s Motion for Reconsideration (Doc. 35) regarding the Court’s Findings of Fact, Conclusions of Law and Order (Doc. 34) will be denied.

Contrary to Plaintiff counsel’s understanding, the Court made no finding or ruling at the Hearing regarding the “traceability” of the proceeds from Defendant Jerilu’s sale of vehicles and equipment. Rather, the Court’s Findings and Conclusions rely on Plaintiff’s express representation, in advance of the Hearing, that the parties had “stipulate[d]” that “\$10,000 of the remaining” balance in Jerilu’s bank account “[we]re from the sale of vehicles and other equipment,” and, thus, “[we]re not subject to the PACA Trust.” *See* Pl.’s “Proposed Judgment” (Doc. 22) at 3, ¶ 4. The Court, and Defendant, were entitled to rely on this representation for the purposes of narrowing the issues in dispute.

Furthermore, the evidence and arguments presented at the Hearing were largely, if not entirely, consistent with the conclusion that the sale-proceeds in question should not be deemed PACA-trust assets. Plaintiff’s current arguments, which rely exclusively on who carries the burden-of-proof, are untenable given Plaintiff’s agreement, before the Hearing, that the funds are

not part of the PACA trust. A grant of reconsideration would be inconsistent with both the record and notions of justice and fair play, and Plaintiff's Motion (**Doc. 35**), therefore, is **DENIED**.

IT IS SO ORDERED.

November 17, 2015

s/Cathy Bissoon
Cathy Bissoon
United States District Judge

cc (via ECF email notification):

All Counsel of Record